

State of Utah

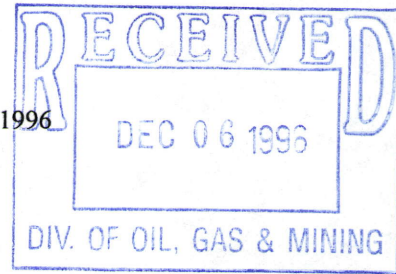
School and Institutional
TRUST LANDS ADMINISTRATION

Michael O. Leavitt
Governor

David T. Terry
Director

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December 4, 1996



Mr. Dick Shumway
1810 Shumway Lane
Moab, UT 84532

RE: S/055/006, PRO/055/003, ML 43377-Coal, ML 45082-Phosphate and ML 44815-Clay
T27S, R9E, Section 2, SW¼, SLB&M, Wayne County

Dear Mr. Shumway,

Thank you for your letter of November 26, 1996. I hope that I may be able to clarify any misunderstanding regarding the status of the above numbered permits and mineral leases.

In early 1990, you and Bob Shupe first contacted me about mining humic shale or shaley coal associated with the top coal seam of the recently reclaimed Atlas-Dirty Devil coal mine. I advised you that humic shale falls under the Clay lease classification and that Mr. Shupe had rights to mine only that material which may be classified as coal. I collected and had some samples from the top coal seam analyzed. It was determined that the coal was high volatile Bituminous, although very high in ash and sulfur. The edges of the deposit grade into a non-coal shaley material which may be classified as humic shale. I advised you that any mining of the coal seam would require 1) compliance with Division of Oil, Gas & Mining (DOGM) coal mining regulations; 2) approval of your mining and reclamation plan by the School and Institutional Trust Lands Administration, formerly the Division of State Lands & Forestry; and, 3) coordination of your proposed operations with the Clay (humic shale) lessee. You did not want to go through the extensive DOGM coal permitting process and inquired about obtaining an exemption based on the poor quality of the coal. DOGM responded that your proposed mining must be permitted in accordance with the coal mining rules.

In September, 1990, you took out a phosphate lease, ML 45082, upon the lands. Your January, 1991, Notice of Intent filed with DOGM (No. S/055/006) stated that you intended to mine phosphate and potassium. Mr. Jerry Mansfield administered phosphate leases for Trust Lands at that time. His letter of February 4, 1991, instructed you to submit a notice of intent to Trust Lands and obtain an approved mining and reclamation plan as required by the terms and conditions of the lease. You were also cautioned about the rights of the other lessees and advised that humic shale does not fall within the domain of a Phosphate lease upon trust lands.

In 1992, Bob Shupe again petitioned DOGM (No. PRO/055/003) for an exemption from the coal mining regulations in order to mine under his coal lease, ML 43377. Confusion arises at this point when DOGM mingles Mr. Shupe's coal mining Petition with your small mine permit, S/055/006, for phosphate. DOGM apparently concluded that you and Mr. Shupe were after the same commodity and were working together. On December 18, 1992, you signed an Affidavit providing for exemption of your proposed mining operations under ML 45082 and S/055/006 from DOGM's coal mining regulations. The Affidavit references phosphate lease ML 45082, although expired, as your authority to mine. The Notice of Exemption, published by DOGM, references your small mine permit No. S/055/006, originally issued for phosphate mining, yet states that you intend to mine humic shale. This is all a little confusing to me. Even if the Affidavit had correctly referenced coal lease ML 43377 as authority to mine, as you contend should have been the case, that still would not have given you the lease rights to humic shale. **Humic shale on state trust land is leased under the Clay mineral leasing classification.**



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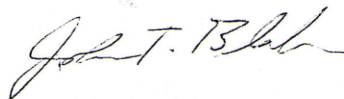
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Putting the past aside, let us focus on where we need to go from here in order for you to develop the humic shale or coal resources in these lands. The present situation is as follows.

- ▶ Phosphate lease ML 45082 is terminated. No rights or permits issued under this lease have further effect.
- ▶ The right to extract humic shale presently resides with the Duvel Corporation, under Clay lease ML 44815.
- ▶ The right to mine coal presently resides with Bob Shupe, under coal lease ML 43377. An assignment of the lease from Bob Shupe to Dick Shumway, dba Sunray Mineral Products, is not approved. (The assignment may not be approved until the recent unauthorized mining disturbances in the lands are reclaimed.)
- ▶ Lessee must provide Lessor with a 60 day of intent and obtain a mining and reclamation plan approved by the School and Institutional Trust Lands Administration prior to the commencement of operations.
- ▶ The School and Institutional Trust Lands Administration, as Lessor, has not received a notice of intent or approved any mining and reclamation plan for the mining of humic shales under ML 44815.
- ▶ The School and Institutional Trust Lands Administration, as Lessor, has not received an adequate plan of operations or approved any mining and reclamation plan for the mining of coal under ML 43377.
- ▶ Any plan of mining for either humic shale or coal in these lands must be coordinated between both the Clay lessee and the Coal lessee because of the closely associated nature of the deposits in these lands.
- ▶ A bond must be posted with the School and Institutional Trust Lands administration to ensure royalty payments, mined land reclamation and conservation of resources prior to the commencement of mining.

If you desire to mine either humic shale or coal from these state trust lands then you must 1) obtain the appropriate lease or operating rights from the lessee of record; 2) provide a 60 day notice of intent to commence mining and obtain an approved plan of operations from the School and Institutional Trust Lands Administration; and, 3) post a bond with the School and Institutional Trust Lands Administration. Please contact me if I may further advise you on any of these items.

Sincerely,



John T. Blake
Mineral Resources Specialist

cc: David Terry
Jim Cooper
Wayne Hedberg